



Australian Islamic College PERTH

EQUAL OPPORTUNITY, DISCRIMINATION, HARASSMENT AND BULLYING POLICY

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POLICY STATEMENT

The purpose of this Policy is to provide direction to staff regarding their obligations with respect to complying with the relevant law on unlawful discrimination, harassment, and bullying as it pertains to the workplace. As the College may be vicariously liable for a claim made by an employee with respect to unlawful discrimination, harassment and bullying it is important that staff understand and are familiar with the concepts and obligations under this Policy.

Australian Islamic College is committed to providing an inclusive and equitable working and learning environment, with services and management practices free from unlawful discrimination, harassment and bullying including prevention and effective management of discrimination, harassment and bullying.

DEFINITIONS

Complainant

A person who has made a complaint.

Discrimination

Is any practice that makes a distinction on the basis of attributes between individuals or groups that disadvantages some and advantages others.

Diversity

A term used to acknowledge differences between people in the community and where work practices are adapted to create an inclusive environment in which those differences are valued.

Equal Employment Opportunity

The process by which all existing and potential employees are treated fairly and equitably, based only on their particular skills and attributes in regard to their capacity to perform a job, regardless of their differences.

Formal Complaint

A written complaint where the complainant implements proceedings through the College's formal complaints process, and/or through an external agency.

Harassment

Perceived or actual demonstrated patterns of behaviour that are offensive, humiliating, intimidating or threatening and cause a person disadvantage or anxiety over a period of time.

Impairment (Disability)

As defined in the *WA Equal Opportunity Act 1984*: *impairment* in relation to a person, means one or more of the following conditions —

(a) any defect or disturbance in the normal structure or functioning of a person's body; or
(b) any defect or disturbance in the normal structure or functioning of a person's brain; or
(c) any illness or condition which impairs a person's thought processes, perception of reality, emotions or judgment or which results in disturbed behaviour,
whether arising from a condition subsisting at birth or from an illness or injury and includes an impairment

—
(d) which presently exists or existed in the past but has now ceased to exist; or

(e) which is imputed to the person.

The Commonwealth's *Disability Discrimination Act 1992* definition: *disability*, in relation to a person, means:

(a) total or partial loss of the person's bodily or mental functions; or

(b) total or partial loss of a part of the body; or

(c) the presence in the body of organisms causing disease or illness; or

(d) the presence in the body of organisms capable of causing disease or illness; or

(e) the malfunction, malformation or disfigurement of a part of the person's body; or

(f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or

- (g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour;
and includes a disability that:
- (h) presently exists; or
 - (i) previously existed but no longer exists; or
 - (j) may exist in the future (including because of a genetic predisposition to that disability); or
 - (k) is imputed to a person.

To avoid doubt, a *disability* that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability.

Informal Complaint

A verbal or written complaint where the person wishes to discuss the incident but not implement formal proceedings.

Race

Under discrimination legislation, race is defined as colour, descent, ethnic or national origin or nationality. It is also unlawful to harass or discriminate against a person because a relative or associate of that person is of a different racial identity.

Racial Harassment

Also referred to as racist bullying, may take many forms including threats, abuse, insults and taunts based on a person's race or a characteristic belonging to, or generally believed to belong to a particular race. Racial harassment can involve a single incident.

Racial Hatred

Insulting, humiliating, offending or intimidating a person or group in public on the basis of their race is unlawful. A variety of acts can constitute racial hatred, including speaking, singing, making gestures, drawings, images and written publications such as newspapers, leaflets and websites. Racial hatred is also known as racial vilification.

Racism

The expression of intolerance or hatred towards another race or other races through behaviour or attitude.

Racist Bullying

Bullying or harassing a person because of their race is also referred to as racist bullying.

Sexual Harassment

An unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature. Sexual harassment does not need to be repeated or continuous, it can involve a single incident.

Superordinate

The person to whom an individual's manager reports, or a more senior manager.

Vexatious Complaint

A complaint which is instituted without sufficient grounds and serving only to cause annoyance.

Vicarious Liability

The employer is vicariously liable (legally responsible) under the *Equal Opportunity Act 1984* for acts of discrimination and harassment committed by employees in connection with their employment. This does not apply if the employer took all reasonable steps to prevent that unlawful act from taking place.

Victimization

Actions such as threats, harassment or punishment of a person who is, will be or has been involved in a complaint under the *Equal Opportunity Act 1984*, is unlawful.

Workplace Bullying

Bullying is repeated, unreasonable or inappropriate behaviour that has the potential to offend or harm, thus creating a risk to the employee's safety and health.

Resolution

Refer to the College's Disputes & Complaints Policy.

1. Introduction

Everyone at AIC has a legal obligation not to discriminate against, harass or bully for any reason any College employee, agent, contractor, supplier, volunteer, parent, student or visitor. The College expects all staff to treat each other, and any people with whom staff come into contact with while a representative of the College, with dignity, courtesy and respect.

The purpose of the College's Equal Opportunity, Discrimination, Harassment and Bullying Policy is to ensure staff understand:

- What unlawful workplace discrimination, harassment and bullying is;
- How the College will deal with workplace complaints involving discrimination, harassment and bullying; and
- Who you can talk to at the College if you wish to make a complaint

2. Who does this Policy apply to?

This Policy applies to all employees, contractors, relief workers and volunteers engaged by the College and applies to behaviour:

- In the workplace, including while working outside normal working hours;
- While undertaking work activities including interactions with parents or other third parties and while working away from the College (eg. Excursions, sporting activities); and
- At work related events (eg. Conferences, professional development courses, fundraising events, graduation ceremonies, etc)

Principals, managers and direct supervisors must:

- Maintain work and learning environments free from unlawful discrimination, harassment and bullying and address issues and incidents involving students, staff and visitors in a timely manner;
- Provide equal opportunities for all; and
- Provide access to facilities, services or opportunities to meet special needs, where reasonable and practicable.

3. What is Unlawful Discrimination?

Discrimination involves the treatment of one person or a group of people less favourably than another or causing them disadvantage.

Discrimination can be direct or indirect.

Direct discrimination occurs when an individual or group is treated less favourably than another because of their sex, age, racial group, etc. An example of direct discrimination is when an employee misses out on an internal promotion because they are seen as too old.

Indirect discrimination occurs where everyone is treated on the same terms according to a rule, policy or directive that has the effect of being less favourable to people of a particular sex, age group, race, religion, etc and which is not reasonable in all the circumstances. An example of indirect discrimination would be a school policy stating that the primary school will not employ part-time teachers – this would impact on teachers who may wish to work part-time due to carers' responsibilities and would most likely exclude a large proportion of women – and this restriction is not reasonable.

There are exceptions from anti-discrimination law which may apply in some situations – for example, because of the requirements of a particular job; it may be reasonable for only women to supervise in a girls' boarding school.

Indirect discrimination does not necessarily involve the intention to discriminate or even awareness, and may result from the continuation of past practices or policies that apply to all staff.

4. What is Unlawful Harassment?

Defining unlawful harassment

Harassment consists of perceived or actual demonstrated patterns of behaviour that are offensive, humiliating, intimidating or threatening and cause a person disadvantage or anxiety over a period of time.

Unlawful harassment is a type of unlawful discrimination. In general, unlawful harassment is any form of conduct or behaviour which affects a person that:

- Is unwelcome (not wanted) or uninvited (not asked for); and
- Is based on one of the unlawful reasons; and
- A reasonable person would have anticipated might humiliate, offend or intimidate the person exposed to the conduct.

What are the types of unlawful harassment?

Types of unlawful harassment include, but are not limited to:

- Sexual harassment;
- Verbal abuse or comments that degrade or stereotype people because of their race, sex, sexuality, pregnancy, disability, etc;
- Jokes based on race, sex, sexuality, pregnancy, disability etc;
- Mimicking someone's accent, or the habits of someone with a disability;
- Offensive gestures based on race, sex, sexuality, pregnancy, disability, etc;
- Bullying a person because of their race, sex, sexuality, pregnancy, disability, etc;
- Ignoring or isolating a person or group because of their race, sex, sexuality, pregnancy, disability, etc; or
- Display or circulation of racist, pornographic or other offensive material (including in electronic format).

Harassment might not be unlawful, if it is not based on one of the unlawful reasons. However, the College expects all staff to treat each other, and other people with whom they come into contact as representatives of the College, with respect and courtesy.

In some cases a single action or incident can create unlawful harassment. In other cases there may need to be a persistent pattern of behaviour before unlawful harassment has occurred.

What is unlawful sexual harassment?

Unlawful sexual harassment is one form of harassment which the law does not allow. A person sexually harasses another person if:

- They make an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person; or
- They engage in other unwelcome conduct of a sexual nature in relation to the person; in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated **the possibility** that the person exposed to the conduct would be offended, humiliated or intimidated.

Unlawful sexual harassment includes, but is not limited to:

- Pressure or demands for dates or sexual favours;
- Unnecessary familiarity - for example, deliberately brushing against a person or constantly staring at a person;
- Unwanted physical contact - for example, touching or fondling;
- Sexual jokes or innuendo;
- Offensive telephone calls;
- Offensive sexual gestures;
- Unwelcome comments or questions about a person's sex life;
- Display, circulation of sexual material, including magazines, posters or pictures (including in electronic format);
- Sending email or text messages which contain sexual content or tone; or
- Sexual assault.

It is important to understand that some of these forms of sexual harassment are also criminal behaviour and may be treated as a criminal offence.

Mutual attraction between people is not sexual harassment. Conduct which is welcome or consensual is not unlawful, and friendships (sexual or otherwise) which develop between people who meet at work are a private concern provided they **do not** impact on the workplace or the College. However, you should take great care before engaging in conduct you believe to be welcome. Always remember that some people may not feel comfortable telling you that your behaviour is offending them and is not welcome. This may be because of their personality or may be because they are too worried about the possible impact on their employment if they complain. It is **your** responsibility to ensure that you **do not** engage in conduct which is not welcome. Similarly, it is your responsibility to tell someone if you do not feel comfortable with their behaviour, or at least to raise the issue with the Principal / Manager or their superordinate.

You should also remember that even conduct which is welcome may not be appropriate in the workplace. If you are unsure whether conduct is appropriate, you should speak to your Principal / Manager or their superordinate for advice.

Further, any personal friendships that develop should not adversely impact on the College, your responsibilities to do your work or on the performance or productivity of your co-workers.

5. What is Bullying

Defining Bullying?

Workplace bullying is repeated, unreasonable behaviour directed toward a staff member, other individual, or group that may cause harm, including risks to health and safety.

Unreasonable behaviour means behaviour that a reasonable person having regard to all the circumstances would expect to humiliate, intimidate or threaten another person. Such behaviour can include an individual's or group's actions or practices which humiliate, intimidate or threaten another person.

Bullying may also amount to unlawful discrimination or harassment.

Not every bullying incident has a reason that can be easily identified, and sometimes there are multiple reasons with a combination of factors working together. Reasons for bullying may include:

- The general culture of the workplace that tolerates or condones behaviour such as intimidation, harassment, initiation ceremonies or the use of strong abusive language;
- Changes at the workplace;
- Workloads;
- Bias against minority groups;
- Prejudice because of cultural, religious or political differences between groups in society;
- Poor interpersonal skills;
- Poor communication skills;
- Mental health problems;
- The influence of alcohol or other drugs;
- A build-up of feelings of rage or anger; and
- Feelings of loss of control.

What are examples of bullying?

Bullying is not always intentional, as people may not realise that how they are treating someone is having a detrimental effect. A bully may be male or female.

The following types of behaviour, particularly if directed towards an individual repeatedly, may amount to bullying:

- Demeaning language;
- Threats;
- Verbal abuse;
- Outbursts of anger or aggression;
- Physical or verbal intimidation;
- Excluding or isolating; and
- Ganging up.

Other types of behaviour may also constitute bullying.

Bullying behaviour may be **overt** or **covert**. Examples of **overt** bullying behaviour includes:

- Abusive, insulting or offensive language;
- Behaviour or language that frightens, humiliates, belittles or degrades, including criticism that is delivered with yelling and screaming;
- Inappropriate comments about a person's appearance, lifestyle, or their family;

- Teasing or regularly making someone the brunt of pranks or practical jokes;
- Interfering with a person's personal effects or work equipment;
- Harmful or offensive initiation practices;
- Isolation of workers from others; and
- Physical assault or threats.

Covert behaviour that undermines, treats less favourably or disempowers others is also bullying, for example:

- Overloading a person with work or not providing enough work;
- Setting timelines that are difficult to achieve or constantly changing deadlines;
- Constantly setting tasks that are below or beyond a person's skill level;
- Ignoring or isolating a person;
- Deliberately denying access to information, consultation or resources; or
- Unfair treatment in relation to accessing workplace entitlements such as leave or training.

While some workplace bullying involves verbal abuse and physical violence, bullying can consist of subtle intimidation. Workplace bullying can be carried out indirectly via letters, emails and telephone text messages.

Performance management and directions in relation to the performance of work or conduct required by the school are not bullying or harassment.

6. What are your obligations?

Everyone at AIC has a legal obligation not to discriminate against, harass or bully for any reason any employee, agent, contractor, supplier, parent, student or visitor.

Staff must always consider how their behavior will be viewed by the person or people you are dealing with. You might unlawfully harass someone, bully someone or unlawfully discriminate against someone even if you do not mean to do or say anything offensive. It is not a legally acceptable defence to say that you did not mean or intend to humiliate, offend or intimidate somebody else.

It is sometimes difficult to know whether someone will find our behavior acceptable. What is offensive to one person may not be offensive to another. You should be careful not to risk being misunderstood, and, as a result, becoming the subject of a complaint.

7. Victimisation

You must not victimize a person because they have made or propose to make a complaint of unlawful discrimination, harassment or bullying or because they have provided information in relation to a complaint.

Victimisation means subjecting a person to some detriment, for example, ostracizing an employee or excluding them from an opportunity or activity.

8. Responsibilities of the Executive Principal and Board

The Executive Principal and Board will:

- Demonstrate professional and ethical behavior;
- Provide strategic leadership and system level implementation of measures to facilitate and promote equal employment opportunity; and the provision of goods / services / facilities, work and learning environments that are free of discrimination and harassment;

- Inform Principals/managers of their responsibilities under the Equal Opportunity Act 1984 (EO Act), related legislation and policies;
- Verify that Principals / managers implement appropriate strategies and practices to provide equal opportunity, and prevent and address discrimination and harassment in work and learning environments; and
- Respond to complaints regarding equal opportunity, discrimination, harassment and bullying if:
 - Complaints have not been resolved at the workplace / school level;
 - The Principal / manager is the subject of the complaint; and/or
 - The Principal /manager has a conflict of interest.

9. Responsibilities of Principals / Managers

Principals / managers will:

- Demonstrate professional and ethical behaviour;
- Report incidents of discrimination, harassment, victimisation and bullying that may constitute employee misconduct to the Executive Principal; and
- Address equal opportunity, discrimination, harassment and bullying in work and learning environments by:
 - Informing employees of relevant legislation, policies and support services in an induction process, and as required during their employment;
 - Monitoring the workplace for inappropriate conduct and address any occurrences;
 - Implementing strategies and review, where necessary, relevant workplace practices to prevent and address issues for students and employees; and
 - Responding promptly to allegations or incidents involving students, employees and visitors (including contractors, parents / caregivers and community members) and facilitating grievance resolution.

In addition to the above, Principals will provide school leadership that promotes equity and diversity in the teaching and learning program, and within the school community.

10. Accommodating Special Needs and Impairment / Disability

Principals / managers will:

- Provide measures to maintain equal opportunity, including reasonable adjustments (such as modifying requirements, premises or equipment) to the recruitment process and/or work / school environment;
- Provide access to facilities, services or opportunities to meet the special needs of persons who have, or acquire an impairment / disability, where reasonable and practicable;
- Maintain confidentiality of information relating to a person's impairment / disability in the recruitment process and workplace, unless the employee gives written consent to disclose information to their colleagues; and
- In exceptional circumstances, accommodate staff and students who need to bring their child/children into the workplace / school.

11. Sexual Harassment of Students and Employees

Principals will:

- Report all actual, alleged or possible incidents of sexual harassment of students by employees to the Executive Principal and in accordance with the Child Protection Policy; and
- Respond to any allegations or incidents of sexual harassment of employees by students.

12. Responsibilities of Employees

All employees will:

- Demonstrate professional and ethical behaviour, which includes not engaging in victimization or making false or vexatious complaints;
 - Report incidents of discrimination, harassment or bullying to their Principal / manager (or their superordinate, if the Principal / manager is the subject of the complaint) where personal resolution of the issue is not suitable or possible;
 - Ensure they do not make negative comments about another employee to staff, parents or students. Such behaviour, if proven, may result in disciplinary action;
 - Uphold the reputation of colleagues by refraining from making false or malicious statements about them;
 - Participate in investigations and grievance resolution processes, and comply with resolution agreements / decisions;
 - Maintain confidentiality (only discuss allegations with people who have official responsibility for handling the issue);
 - Seek approval from their Principal / manager prior to bringing their child/children into the workplace, which should only occur in exceptional circumstances; and
 - Adhere to the conditions of the Staff Code of Conduct and all Australian Islamic College Policies.
- Should a complaint be made by a parent or a student to any employee about another staff member, that employee must refer the person complaining to the direct line manager of the staff member they are complaining about to lodge the complaint and forward the complaint to the line manager of the staff member. The employee originally complained to will refrain from discussing the matter any further.

13. Sexual harassment of employees by students

All employees must report incidents of sexual harassment of employees by students to the Principal.

14. What can you do if you feel you are being unlawfully harassed or discriminated against or bullied?

If you feel that you are being unlawfully harassed, discriminated against or bullied, there is action which you can take that may resolve the problem, such as:

- Do not ignore circumstances where you feel you are being unlawfully discriminated against, harassed or bullied, thinking it will go away. Ignoring the behaviour could be taken as tacit approval by the person causing the harassment, discrimination or bullying;
- Where you feel comfortable ask the person to stop, or make it clear that you find the behaviour offensive or unwelcome. Maybe the alleged discriminator / harasser / bully is not aware that his/her behaviour is intimidating or unwelcome and will stop once they are told. It may be useful to speak with the Head of Department or Deputy Principal (or their superordinate) in the first instance to seek guidance on how to approach the person involved.
- Alternatively you may raise the issue as a grievance / complaint with the Principal (or their superordinate) **as soon as possible** after the incident(s) has occurred.

If your issue is about the Principal then you should raise it as a grievance with the Executive Principal.

If your issue is about the Executive Principal then you should raise it as a grievance with the Chairman of the School Board under this Policy.

Although you may feel the need to tell a trusted friend or work colleague about the matter, you should be careful. Accusations of unlawful discrimination / harassment can harm the reputation of those involved and could lead to legal action for defamation. Matters of this kind must be dealt with confidentially, on a need to know basis. Do not discuss this matter generally with colleagues or members of the school community. It is in everyone's best interests if rumours are not allowed to spread.

If you feel that you are being victimised because you have made or propose to make a grievance / complaint of unlawful discrimination, harassment or bullying, or because you have provided information in relation to a complaint, you should raise the issue as soon as possible with either the Principal (or their superordinate).

15. How will the School handle your grievance / complaint

All grievances / complaints will be treated confidentially, seriously and in accordance with AIC Policies. The College will determine the most appropriate method of dealing with the grievance. This could include, among other things:

- Requesting further information from you;
- Requesting information from other co-workers or third parties;
- Meeting with you or others involved in the grievance;
- Reviewing and responding to the grievance or arranging for an appropriate person to review and respond to the grievance; or
- Facilitating a meeting between you and the person(s) that the grievance is about.

On receipt of a grievance or complaint the College will generally take the following steps:

- Determine the best method of handling the grievance / complaint;
- Advise you of the likely steps that will be undertaken by the College in relation to the grievance;
- Advise the nature of the grievance / complaint to the person(s) involved and seek their response;
- Collect any additional information the College considers necessary to properly review the grievance / complaint; and
- Advise you, and the person(s) that the grievance / complaint is about, of the College's response to the grievance / complaint and if appropriate, any proposed action to be taken.

It is important to note, that there may be circumstances in which some of the steps outlined above are not appropriate and the College will determine, in its absolute discretion, on a case by case basis, the most appropriate method of handling any grievance / complaint.

The College will take whatever disciplinary action it considers appropriate if there has been unlawful discrimination, harassment or bullying. Such disciplinary action may involve warning, transfer, counselling, demotion, or dismissal, depending on the circumstances. You should also be aware, that if you lie about or exaggerate a grievance / complaint, the College will view this as a very serious matter, and you may be disciplined or dismissed.

16. General

This Policy summarises some of the rights and obligations which are created by legislation. The Policy is not intended to go beyond legislation. This Policy is not a term of any contract, including any contract of employment.

All staff, students and affiliates at Australian Islamic College have a right to work or study in an environment that is inclusive and is free from unlawful harassment, discrimination and bullying, and to be treated with dignity and respect, irrespective of their background, beliefs or culture.

All staff, students and affiliates have a responsibility to ensure that they do not promote or engage in unlawful harassment, discrimination or bullying behaviours.

All Principals, managers and supervisors are actively responsible for intervening to prevent unlawful harassment, discrimination and bullying.

All staff, students and affiliates have a right to access the College's complaints resolution procedure if they believe they have experienced unlawful harassment, discrimination or bullying.

A breach of this policy may result in disciplinary action. Any victimisation of or detrimental action towards any person who raises a grievance / complaint of unlawful harassment, discrimination or bullying in accordance with this Policy will be treated seriously, and may result in disciplinary action.

Any intentional misuse of this Policy, including knowingly making a false allegation of unlawful harassment, discrimination or bullying, will be treated seriously and may result in disciplinary action.

This Policy will be reviewed annually.

Last Reviewed: [February 2020]
Approved by: [Executive Principal]
Next review: [December 2021]